

### **REMARKS/ARGUMENTS**

Claims 1-43 are currently in the application. Applicants have amended claims 1, 4, 12, 15, 16, 18, and 19. Claims 6-11 and 27-43 have been withdrawn. Claims 3 and 20-26 have been cancelled.

Claim 1 is amended to include the limitation of Claim 3, which is now cancelled. Claim 4 is amended to correct dependency. Claim 12 is also amended to include the limitation of “consisting essentially of”. Claim 15 is amended to clarify the limitation of the food composition having the non-racemic ratio of S-equol and R-equol. Claim 16, like Claim 12, is also amended to include the limitation of “consisting essentially of”. Claim 18 corrects the form of C-4' (that is, C-4 “prime”). Claim 19, like Claim 15, clarifies the limitation of the topical composition having the non-racemic ratio of S-equol to R-equol.

New claims 44 and 45 are made dependent to Claims 1 and 12, respectively, and find support for Claim 16. New Claims 46-49 relate to a food supplement, with support found in paragraph [0123], and from Claims 2, 3, 18 and paragraphs [0097] – [0100].

### **Election/Restrictions**

On page 2 of the Office Action, and pursuant to 35 USC 121, the Examiner states that restriction to one of the following inventions is required:

- I. Claims 1-5 and 12-19, drawn to compositions for use in the making of commercial products, comprising S-equol, classified in 549/406 and 514/434.
- II. Claims 6-11 drawn to an article of commerce comprising a non-racemic mixture of S-equol and R-equol, classified in classes 549/406 and 514/434.
- III. Claims 20-43 drawn to a method of making a composition comprising S-equol.

Applicants elect the claims associated with Invention I, claims 1-5 and 12-19, drawn to compositions for use in making of commercial products, comprising S-equol. Applicants have added new claims, associated with Invention I.

Applicants have either withdrawn or cancelled the remaining claims

Applicants also wish to point out that while claims 20-26 relate to methods of making a composition comprising S-equol (Invention III), claims 27-43 relate to a method of delivering S-equol.

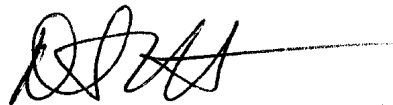
Conclusion

Applicants believe it has provided a complete response to the office action, and that the present invention as claimed clearly distinguishes the teachings of the prior art of record. Applicants request a prompt allowance of all claims.

Respectfully submitted,

For: K.D.R. Setchell et al.

By:

A handwritten signature in black ink, appearing to read 'D. Nesbitt', written over a horizontal line.

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